



**U.S. Department of Justice**

United States Attorney  
Southern District of New York

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86 Chambers Street  
New York, NY 10007

May 21, 2021

By ECF

The Honorable Mary Kay Vyskocil  
United States District Judge  
Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 5/25/2021
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Re: *de la Cruz v. U.S. Dep't of Justice, et al.*, No. 20 Civ. 9941 (MKV) (S.D.N.Y.)

Dear Judge Vyskocil:

This Office represents the U.S. Department of Justice, Executive Office of U.S. Attorneys and Merrick Garland<sup>1</sup> (together, the “Government”) in the above-referenced matter. We write respectfully and with plaintiff’s consent to seek an adjournment of the parties’ June 2, 2021 initial pretrial conference. As discussed below, in lieu of that conference, the parties propose to submit a joint status letter by July 8, 2021, updating the Court as to the status of this matter.

The above-referenced action is brought by Sergio de la Cruz pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. Mr. de la Cruz seeks records from the Government’s case files for *United States v. Grishaj*, No. 07 Mj. 1363 (S.D.N.Y.), and *United States v. Grishaj*, No. 07 Cr. 1158 (S.D.N.Y.) that mention or refer to Mr. de la Cruz. The Government disclosed records responsive to plaintiff’s FOIA request today, May 21, 2021, and the plaintiff is currently reviewing those records. The parties respectfully request an adjournment of the upcoming initial pretrial conference to allow additional time to determine whether further litigation is necessary, and if so, what steps should be taken in anticipation of such litigation.

Because this action is brought pursuant to the FOIA, ordinary principles of discovery are inapplicable. If disputes arise as to the propriety of withholdings or redactions made by the Government, they will be resolved on cross-motions for summary judgment. *See Carney v. DOJ*, 19 F.3d 807, 812 (2d Cir. 1994). Therefore, the parties agree that there may be no need for a case management plan governing discovery or for an initial pretrial conference in this case. Accordingly, the parties propose to submit a joint status letter by July 8, 2021, updating the Court as to the status of this matter and informing the Court whether further litigation is necessary.

We thank the Court for its consideration of this request.

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<sup>1</sup> Pursuant to Federal Rule of Civil Procedure 25(d), Attorney General Monty Wilkinson is automatically substituted for former Attorney General Merrick Garland.

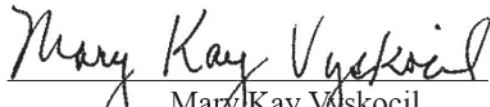
Respectfully,

AUDREY STRAUSS  
United States Attorney

By: /s/ Zachary Bannon  
ZACHARY BANNON  
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New York, New York 10007  
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**GRANTED. The Parties should file a joint status letter on or before July 8, 2021. The conference previously scheduled for July 2, 2021 is adjourned. SO ORDERED.**

Date: 5/25/2021  
New York, New York

  
Mary Kay Vyskocil  
United States District Judge